

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

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JOSEPH JAMES BELILE

15CV7960

(In the space above enter the full name(s) of the plaintiff(s).)

-against-

CO. J. CARROLL

CO. D. TRAVIS

COMPLAINT

under the
Civil Rights Act, 42 U.S.C. § 1983
(Prisoner Complaint)

Jury Trial: ☒ Yes ☐ No
(check one)

(In the space above enter the full name(s) of the defendant(s). If you cannot fit the names of all of the defendants in the space provided, please write "see attached" in the space above and attach an additional sheet of paper with the full list of names. The names listed in the above caption must be identical to those contained in Part I. Addresses should not be included here.)

I. Parties in this complaint:

- A. List your name, identification number, and the name and address of your current place of confinement. Do the same for any additional plaintiffs named. Attach additional sheets of paper as necessary.

Plaintiff Name Joseph James Belile
ID # Din 14A3897
Current Institution UPSTATE Correctional Facility
Address P.O. Box 2001
Malone, New York 12953

- B. List all defendants' names, positions, places of employment, and the address where each defendant may be served. Make sure that the defendant(s) listed below are identical to those contained in the above caption. Attach additional sheets of paper as necessary.

Defendant No. 1 Name C.O. J. Carroll Shield # X
 Where Currently Employed Downstate Correctional Facility
 Address P.O. Box 445, 121 Red Schoolhouse Rd.
Fishkill, N.Y. 12524-0445

Defendant No. 2 Name C.O. D. Travis Shield # X
 Where Currently Employed Downstate Correctional Facility
 Address P.O. Box 445, 121 Red Schoolhouse Rd.
Fishkill, N.Y. 12524-0445

Defendant No. 3 Name _____ Shield # _____
 Where Currently Employed _____
 Address _____

Defendant No. 4 Name _____ Shield # _____
 Where Currently Employed _____
 Address _____

Defendant No. 5 Name _____ Shield # _____
 Where Currently Employed _____
 Address _____

II. Statement of Claim:

State as briefly as possible the facts of your case. Describe how each of the defendants named in the caption of this complaint is involved in this action, along with the dates and locations of all relevant events. You may wish to include further details such as the names of other persons involved in the events giving rise to your claims. Do not cite any cases or statutes. If you intend to allege a number of related claims, number and set forth each claim in a separate paragraph. Attach additional sheets of paper as necessary.

- A. In what institution did the events giving rise to your claim(s) occur? Downstate
Correctional Facility.
- B. Where in the institution did the events giving rise to your claim(s) occur? 1 Complex
F Building, 30 cell.
- C. What date and approximate time did the events giving rise to your claim(s) occur? February
6th 2015 at approximately 11:30 AM.

D. Facts: ① on February 6th 2015 Co. J. Carroll announced over the P.A. system "on the count" I was speaking to my neighbor at this time, at the time after the first announcement I quieted down. Co. J. Carroll then got back on the P.A. system & stated "I don't have to run up in your cell do I?!"

What happened to you?

Who did what?

Was anyone else involved?

Who else saw what happened?

② Plaintiff didn't know to whom he was addressing this to, but assumed it was someone on my 6 Cell "tier", as recently Co. J. Carroll had ran into my neighbors cell & tussled with him (but nothing was ever written up about it)

③ As Co. Carroll came down the stairs to plaintiff's "tier" he started counting people starting at plaintiff's cell #30, upon reaching plaintiff's cell door & rattling the handle, Co. J. Carroll stated: "that's what I thought pussie."

SEE ATTACHED PAGES - Continued

III. Injuries:

If you sustained injuries related to the events alleged above, describe them and state what medical treatment, if any, you required and received.

alot of pain all over my body, which was untreatable as I was already on long term pain meds for other issues & they didn't block it. pain lasted 1 week to 6 weeks depending where it was. Cuts on back right arm & Scar now. Cut on 2 fingers. Bruises all over. Sore throat for weeks. loss of sleep from night mares & fear, Scared of further assault, stress.

IV. Exhaustion of Administrative Remedies:

The Prison Litigation Reform Act ("PLRA"), 42 U.S.C. § 1997e(a), requires that "[n]o action shall be brought with respect to prison conditions under section 1983 of this title, or any other Federal law, by a prisoner confined in any jail, prison, or other correctional facility until such administrative remedies as are available are exhausted." Administrative remedies are also known as grievance procedures.

A. Did your claim(s) arise while you were confined in a jail, prison, or other correctional facility?

Yes ☒ No ☐

- ④ Plaintiff was Stunned, & Knew not why Co. J. Carroll was Speaking in Such a way. Plaintiff responded by Stating: "Get away from my cell with that bullshit".
- ⑤ Co. J. Carroll then Stated: "we will see when you come out for meds". And then left the ~~teir~~
- ⑥ Co. J. Carroll then returned to plaintiffs Cell approximately two minutes later and had gloves on and Slapped plaintiffs cell door loudly twice and Said: "open up 30 cell".
- ⑦ Co. J. Carroll then entered plaintiffs Cell and as Co. D. ~~TRAVIS~~ came down to the ~~teir~~ and stood in the doorway of Cell 30, holding the door open, as Co. J. Carroll started violently Shoving plaintiff towards the back of the cell, while stepping on plaintiffs feet (which were bare) and Causing plaintiff to fall backwards and Slicing open the right arms tricep area with a $1\frac{1}{2}$ inch cut, & a huge bruise to form, now a Scar which wont ever leave.

- ⑧ C.O.J. Carroll then Squatted down on plaintiff's legs area, and started to punch plaintiff sharply & very hard in his left upper leg area by hamstring, causing plaintiff severe pain, and a huge bruise to form, and a "Pulled" hamstring, making it extremely painful ~~so~~ plaintiff couldn't stand weight on the left leg at all, let alone walk, or exercise etc....
- ⑨ C.O.J. Carroll then grabbed plaintiff's left arm and started bending it to try to break it and cause pain, actually causing sharp & excruciating pain in the shoulder & elbow areas.
- ⑩ C.O.J. Carroll then grabbed plaintiff's left leg and started bending it to try to break it and cause pain, causing plaintiff to feel sharp & severe pain in knee & hip areas.
- ⑪ C.O.J. Carroll then started to punch plaintiff on chest, legs, and arm, causing enough pain for plaintiff to reach out his right hand palm flat to block further punches.

- which hand got caught in the button up area of Co. J. Carroll's shirt, as Co. J. Carroll jerked back, plaintiff's middle & ring finger on right hand ended up being sliced open on the back open "pins" on Co. J. Carroll's name plate on his shirt.

⑫ Co. J. Carroll then stood up to leave but stopped & tried to kick plaintiff in the genitalia but instead the kick landed on the inside upper left thigh. (causing a lot of pain & a huge bruise).

⑬ As plaintiff attempted to stand up also, Co. D. Travis ran past Co. J. Carroll, and Co. D. Travis wrapped both hands around plaintiff's throat choking plaintiff and causing extreme pain, ~~loss~~ of breathing & fear of death while Co. D. Travis stated: "Die you Cracker".

⑭ Both COs then left plaintiff's cell.

SWORN UNDER PENALTY OF PERJURY

Date: 09/31/15

X Joseph J. Belle

If YES, name the jail, prison, or other correctional facility where you were confined at the time of the events giving rise to your claim(s).

Downstate Correctional Facility

B. Does the jail, prison or other correctional facility where your claim(s) arose have a grievance procedure?

Yes ☒ No ☐ Do Not Know ☐

C. Does the grievance procedure at the jail, prison or other correctional facility where your claim(s) arose cover some or all of your claim(s)?

Yes ☒ No ☐ Do Not Know ☒

If YES, which claim(s)? All, but no help given.

D. Did you file a grievance in the jail, prison, or other correctional facility where your claim(s) arose?

Yes ☒ No ☐

If NO, did you file a grievance about the events described in this complaint at any other jail, prison, or other correctional facility?

Yes ☐ No ☐

E. If you did file a grievance, about the events described in this complaint, where did you file the grievance?

Downstate Correctional Facility

1. Which claim(s) in this complaint did you grieve? All that are described in this Civil Actions Facts section.

2. What was the result, if any? NO remedy available for money damages. Investigations done by inhouse & IG.

3. What steps, if any, did you take to appeal that decision? Describe all efforts to appeal to the highest level of the grievance process. I appealed it entirely.

through to the last appeal with CORC in Albany

F. If you did not file a grievance:

1. If there are any reasons why you did not file a grievance, state them here: _____

2. If you did not file a grievance but informed any officials of your claim, state who you informed, when and how, and their response, if any: _____
- _____
- _____
- _____

G. Please set forth any additional information that is relevant to the exhaustion of your administrative remedies. _____

I don't think Exhaustion of all "available" remedies applies to violations of Constitutional rights involving instances which "cannot be taken back" or "fixed" such as excessive force etc. as the "grievance" program cannot pay any monetary damages. It's not an available remedy & thereby voids the PERA.

Note: You may attach as exhibits to this complaint any documents related to the exhaustion of your administrative remedies.

V. Relief:

State what you want the Court to do for you (including the amount of monetary compensation, if any, that you are seeking and the basis for such amount). _____

- ① That both GOS be arrested & prosecuted for a assault etc.
- ② That the New York State Court of claims civil action I've already put in on this issue be added into this federal lawsuit & taken out of the court of claims (State) (I forget what it's called) but adding my state Assault & Battery claims to this federal action.
- ③ Punitive Damages against each officer in the amount of \$50,000.00 each, to be paid to the plaintiff.
- ④ Compensatory damages for all pain & suffering in the amount of \$500,000.00.
- ⑤ That recording (cameras & microphones) be put in in Downstate 51 complex, E block (which is protective custody) to monitor the block, & stop future instances like this.

On
these
claims

VI. Previous lawsuits:

- A. Have you filed other lawsuits in state or federal court dealing with the same facts involved in this action?

Yes ☒ No ☐

- B. If your answer to A is YES, describe each lawsuit by answering questions 1 through 7 below. (If there is more than one lawsuit, describe the additional lawsuits on another sheet of paper, using the same format.)

1. Parties to the previous lawsuit:

Plaintiff Joseph J. BelileDefendants The State of New York

2. Court (if federal court, name the district; if state court, name the county) New York State Court of Claims, Albany New York

3. Docket or Index number Claim # 125942

4. Name of Judge assigned to your case Richard E. Sise

5. Approximate date of filing lawsuit March 2015

6. Is the case still pending? Yes ☒ No ☐

If NO, give the approximate date of disposition _____

7. What was the result of the case? (For example: Was the case dismissed? Was there judgment in your favor? Was the case appealed?) Still pending

I would like it to be added to this federal action though & taken out of the Court of claims. "Enjoined".On
other
claims

- C. Have you filed other lawsuits in state or federal court otherwise relating to your imprisonment?

Yes ☒ No ☐

- D. If your answer to C is YES, describe each lawsuit by answering questions 1 through 7 below. (If there is more than one lawsuit, describe the additional lawsuits on another piece of paper, using the same format.)

1. Parties to the previous lawsuit:

Plaintiff Joseph BelileDefendants Cos Deming + Breckly + Murphy

2. Court (if federal court, name the district; if state court, name the county) New York Northern District, United States District Court

3. Docket or Index number Do not remember

4. Name of Judge assigned to your case Do not remember

5. Approximate date of filing lawsuit 2010?

6. Is the case still pending? Yes ☐ No ☒

If NO, give the approximate date of disposition 2013

Continued prior lawsuits info:

Plaintiff: Joseph J. Belile

Defendants: Co. Murphy, et al.

Court: N.Y. Western District, United States District Court

Docket/Index #: Do not remember

Name of judge: Do not remember.

Approximate Date of filing lawsuit: Oct. 2010?

IS case pending: NO.

Date of Disposition: Oct. 2013

Result of case: Settled out.

Plaintiff: Joseph J. Belile

Defendants: SGT. AMO, Co. Rusaw

Court: United States District Court, Northern District of N.Y.

Docket/Index #: 4:15-CV-0198

Name of Judge: Hon. David E. Peebles

Approximate Date of filing lawsuit: April 2015

IS case still pending: YES.

Date of Disposition: None yet

Result of case: None yet.

Continued prior lawsuits info:

Plaintiff: Joseph T. Belile.

Defendants: Dan Dominie

Court: N.Y. Northern District, United States
- District Court

Docket/Index#: 9:15-CV-423

Approximate date of filing lawsuit: April 2015

IS case pending: YES.

Date of Disposition: None yet

Result of case: None yet

7. What was the result of the case? (For example: Was the case dismissed? Was there judgment in your favor? Was the case appealed?) Dismissed for failure to exhaust Administrative remedies.

I declare under penalty of perjury that the foregoing is true and correct.

Signed this 5 day of October, 2015

Signature of Plaintiff

Inmate Number

Institution Address

Joseph J. Belile
DIN 14A3897
UPSTATE C.F.
P.O. Box 2001
Malone, NY
12953

Note: All plaintiffs named in the caption of the complaint must date and sign the complaint and provide their inmate numbers and addresses.

I declare under penalty of perjury that on this 5 day of October, 2015 am delivering this complaint to prison authorities to be mailed to the *Pro Se* Office of the United States District Court for the Southern District of New York.

Signature of Plaintiff:

Joseph J. Belile

UPSTATE CORRECTIONAL FACILITY
P.O. BOX 2000, 309 BAREHILL ROAD
MALONE, NEW YORK 12953

Joseph Belile Din 14A3897

Legal Mail

United States District Court

SOUTHERN DISTRICT OF NEW YORK

Attorney's Office

US District Court house
Pearl Street
New York, NY 10007-1312



Correctional Facility

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